

Dorsey Is Seeking to Be Grand Jury And Solicitor Too, Say Frank's Counsel

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SOLICITOR SCORED FOR HIS ATTITUDE IN CONLEY'S CASE

Rosser and Arnold Charge Dorsey Seeks to Convict Leo Frank, Guilty or Innocent, Out of Professional Pride

"SHUTTING EYES TO TRUTH, DORSEY PROTECTS NEGRO"

Attorneys Intimate That Dorsey Fears to Let Truth Be Known - Attitude Throughout Case Is Criticized

The attitude of Solicitor General Hugh M. Dorsey throughout the Phagan investigation, and especially in his attempt to block a grand jury indictment of Jim Conley, is scored in an interview made public by Luther Z. Rosser and Reuben R. Arnold, counsel for Leo M. Frank.

"The solicitor is seeking to convict Leo Frank innocent or guilty, in order to gratify his professional pride," Leo Frank's attorneys say.

In the course of the interview the two famous attorneys, who have been engaged to defend the man accused of the murder of Mary Phagan, charge that the solicitor is protecting the negro Conley.

Mr. Dorsey is severely criticized not only for his avowed intention of trying to block the indictment of Conley by the grand jury Monday, but because he prevented the last grand jury, the one, which indicted Leo Frank, from acting on Conley's case, and because he did not place before the last grand jury any of Conley's confessions.

Solicitor Dorsey is greeting his legal and constitutional functions in seeking to control the action of the grand jury," Attorneys Rosser and Arnold declare.

Despite the criticism of his attitude, there is little doubt that Solicitor Dorsey will be present Monday, when the grand jury

takes up the consideration of the Conley case. In fact the solicitor's presence has been requested by W.D. Beattie, the foreman of the grand jury, who called the meeting.

Solicitor Dorsey is still confident that the grand jury will not indict Conley.

There is little doubt that there will be a quorum present, when the grand jury meeting is called Monday, for Deputy Sheriff Plennie Minor has found that 19 of the 20 grand jurors empaneled are in the city, and they have promised to be present Monday. It takes 18 grand jurors to act on a bill of indictment. The statement of Mr. Rosser and Mr. Arnold, scoring the solicitor is as follows:

STATEMENT IN FULL.

"Counsel for Leo M. Frank have refrained from making a statement for the papers except under strong provocation. Clearly counsel on both sides should refrain from any comment of or criticism on any action of the grand jury to be taken at its meeting next Monday, which might tend to hamper or limit the grand jury in their action upon the Conley case.

"The grand jury is an independent body; it is under the control of no one.

"A solicitor general is the adviser of that body as to legal principles merely, but he has no right to exercise any sort of control in determining who shall or shall not be indicted.

"To permit a solicitor general to use the position entrusted to him by the people, to decide for himself who shall and who shall not be indicted, is a danger too great to be contemplated.

"With this preliminary statement, we reluctantly make a reply to Solicitor Dorsey's interview in this morning's paper.

"It is rather remarkable that the solicitor general and a person admitting complicity in a grave crime should[...]

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[...]get together in such harmonious concert of action as these two interviews show. Mr. Dorsey admits that the indictment of Conley will have only a mild but undesirable effect on the state's case against Leo M. Frank."

"Ought the solicitor general for one moment to be influenced in his advice to the grand jury by any consideration of the effect upon anybody's case?

"It is not our understanding that the grand jury is organized to aid the solicitor general in his management of cases in court; their function is a higher one. They investigate every case of probable guilt and return an indictment. It could just as well be argued that the indictment of Leo Frank might have a mild but undesirable effect on Conley's case in case Conley had been first indicted.

THE SOLICITOR'S POSITION.

"The position of the solicitor general in this case from the beginning has been most remarkable. It has been heretofore understood that the solicitor was to try cases sent to him by the grand jury, but in this case, detective like, the solicitor is seeking to determine who shall be indicted. Forgetting his legal and constitutional functions, he is undertaking to control the action of the grand jury.

"The citizens of this county elected in Mr. Dorsey as solicitor general, but Mr. Dorsey has mistaken the purpose of his election. Evidently he believes that he was elected to be also the grand jury.

"The solicitor general does his duty when he tries to the best of his ability cases sent him by the grand jury. The solicitor falls far below the dignity of his office when he inflames public opinion, thereby inducing a conviction, innocent or guilty.

"The solicitor has closed his eyes to these plain truths and has rushed into print day by day proclaiming the guilt of Leo Frank and the innocence of the negro, apparently for no purpose but to

convict Leo Frank, innocent or guilty, for the gratification of his professional pride.

"So far has the state's counsel forgotten the function of a prosecution, which is only to ascertain the truth and convict the guilty, that Mr. Dorsey's detective assistant, Chief Lanford, in an interview in this morning's paper, use the following language as to the Pinkerton detective, Scott, and Lanford's refusal to allow him to see Conley: 'We did not want to embarrass Scott by requesting him to keep silent and did not want to risk the probability of letting new developments reach Leo Frank's attorneys, therefore we were forced to prevent him from seeing the negro.'

"It seems, therefore, a matter for great endeavor on the part of the state, as the solicitor and his associate detectives see it, to keep whatever facts they rely upon to convict Leo Frank from the defendant and his attorneys and the public.

WHY SO MUCH FEAR?

"If the facts in the solicitor's possession were the truth, why so much fear as to letting them out? Is it possible that the effort is to ambush the defendant by the proof of circumstance on the trial which he has no opportunity to meet or explain? Is it possible that the state's object is to keep the defendant in the dark as to the state's evidence and to so conduct its case that he will have no opportunity to know the facts relied upon to convict him and no opportunity to clearly meet them and disprove them, if they be raised?

The solicitor has undertaken in this case to hold certain witnesses in custody. He undertook to do this in the case of the negro Conley; but so fearful was he that the negro might dare tell all he knew, that he went through the farce of requesting the superior court to no longer incarcerate Conley and to discharge him, and immediately upon obtaining this order of discharge, he went through the greater farce of having him loosed upon the streets and then immediately and illegally returning him to the city

station house, where he now is carefully watched, counseled and interviewed by the solicitor, his assistant Mr. Hooper and his detective assistants.

"We have no criticism of the former grand jury, but some things happened before it, as reported, that tend at least to provoke serious inquiry.

"When Leo M. Frank's case was before the grand jury and in the midst of it, Conley made his first confession, forced thereto by the discovery that he could write. It suggested to the solicitor that this confession be brought to the grand jury's attention. That would have been a fair thing to do. It was not done, and rumor has it that Mr. Dorsey directed that it be not done.

"One other thing is almost incredible: according to the public prints, when the solicitor wanted a vacation he was so afraid that the grand jury might act in his absence that he sought to extract a promise from the sworn servants of the state not to indict in his absence.

"When before was it ever suggested to a grand jury that they must await the termination of a pleasure trip before they should indict in any case where indictment was necessary?

IN REPLY TO MR. SMITH.

"Little need be said in reply to lawyer William M. Smith's interview given in support of the solicitor's position.

"It is remarkable that the solicitor has to rely for support upon an argument made by Conley's counsel. It is, however, appropriate that he should bolster up the solicitor as he depends mightily upon the solicitor to protect his negro Conley. Conley's counsel realizes who is Conley's friend and rushes in print to his rescue.

"We are publishing this interview neither in an effort to have Conley indicted nor in an effort to have him not indicted. That is a matter solely for the grand jury. We are not making any appeal to them or to anybody else as to the effect Conley's indictment would have on the Leo Frank case. So far as we are concerned we

feel that the failure of the solicitor general to secure an indictment against a confessed accessory to the crime of murder would make far more capital in favor of Leo Frank upon his trial, than if he were indicted. We think any jury, and we think any community would resent the rank favoritism shown this confessed criminal.

"LUTHER Z. ROSSER.

"REUBEN ROSE ARNOLD."

New Witness Found Who Will Testify for Leo Frank

Both the state and the defense continue with preparations for the great legal battle, which is expected to be staged Monday week. It is said that nearly a hundred witnesses will be subpoenaed for both sides and it is not improbable that this number will be augmented if the defense, as it probably will, decides to put Leo Frank's character in issue.

Dozens of prominent citizens who know him, then will be called.

The defense is preparing to prove every statement made by Leo Frank at the inquest about his movements on the day of the tragedy, by numerous witnesses. One of these witnesses, who has not previously been known to the case, is Harry J. Hinchley, district manager of the South Atlanta Blow Pipe company, who resides at the Peachtree Inn. Mr. Hinchley states that he saw Leo Frank on April 26, between 1:50 o'clock and 2:05 o'clock on a Washington street car, near the corner of Washington and Hunter streets. Mr. Hinchley was in an automobile which was stopped along side the car. He was out of the city at the time of the inquest, but has recently been located by the defense, and has agreed to give his testimony on the stand. His statement conforms with the statement of Leo Frank as given during his long examination at the inquest.

Conley's Attorney Does Not Believe He Will Be Indicted

Attorney William M. Smith, counsel for James Conley, has furnished The Journal the following statement for publication:

"One of the least of the evil results of the indictment of Conley, would be to force Conley back to the county jail. He would be immediately arrested, after indictment, under a bench warrant and lodged in the county jail, as a prisoner.

"Of course, it is pretty hard that Conley is now protected from fellows of the Mincey type. You see, since Conley has been held at the station house, it has been impossible to pull off a confession stunt. No one could get to him, so no one could qualify as having had the opportunity to talk with him. Consequently the alleged confession must be dated back prior to Conley's arrest. You can see a possible reason for the delayed report of Mr. Mincey.

"I smelt this Mincey stunt way back yonder when I was fighting to hold Conley at the station house. The physical construction of the county jail and the inadequacy of guards, owing to lack of public funds for this purpose, renders it an impossibility to protect Conley against such fellows as Mincey. If the grand jury indicts Conley, thereby forcing Conley back to the tower, I know Sheriff Mangum and his men will do the best possible under all the circumstances, but there will be more Mincey patriots, bearing the Conley confession than can possibly be harmonized in the short time between now and the trial. There will be so many hands in the Conley confession pot, until it will spoil the pie.

"Another thing. It must be embarrassing and really alarming to Mr. Leo Frank, in his defense, not to be posted to date on what Jim Conley might be telling. It is easy to win a game, as a rule, if you know the other fellow's signals. Conley must be made more accessible to interviews, at any cost, is a theory that no doubt appeals strongly. It is difficult for outsiders at the station house to get wise to the whole truth as Conley tells it. It will be comparatively much easier to reach Conley at the county jail. As soon as the grand jury are assembled as soon as they indict Conley, as soon as he is lodged in the county jail, interviewers for information purposes will be Mincey thick.

DOESN'T FEAR JURY.

"The grand jury can mess this up if they want to, in a dozen different ways. I read a list of their names today, and after seeing who they are, I do not believe they will do it. All of them that I know are high-toned, honorable men, in my judgment; and, while they may meet, I have enough confidence in those I know to believe that they will first sift the influences that have been pressing them to act and not be misled by them. I believe a most thorough and painstaking investigation should be made by the grand jury into these influences, if they exist, and that rigorous measures should be adopted, even though it should strike members of the grand jury. If any members of the grand jury have been unduly active in this matter, they should not be spared. Any one who seeks improperly to embarrass the state, in avenging the murder of this little girl, should be summarily dealt with."

(Signed.) WILLIAM M. SMITH.